

REMARKS

As an initial matter, Applicant observes that this restriction requirement is not proper under MPEP § 803, which requires the provision of "reasons and/or examples to support conclusions." Here, it has been asserted that Applicant has claims directed to patentably distinct species as determined through (evidently) a mere analysis of the figures without any supporting justifications whatsoever. Furthermore, the restriction requirement has placed the burden on the Applicant of determining what claims are directed to the various figures. Applicant is thus saddled with attorney fees for doing the analysis that should have been done in the restriction requirement. Applicants respectfully submit that the August 24, 2004 action does not establish (by any means) that Applicant has claimed "independent and distinct" inventions as required by 35 USC § 121 for a proper restriction requirement.

Applicants respectfully repeat what "independent and distinct" means in this context. As set forth in MPEP § 802.01, "independent" means that "there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect." Distinct means that "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER." (emphasis in original). As set forth in MPEP § 803, a restriction requirement may be made if either the "independent" or "distinct" prongs are met.

The restriction requirement asserts that (unidentified) claims directed to Figures 1, 2a, and 3-6 are patentably distinct from those (unidentified) claims directed to Figures 1, 2b, and 3-6. Consider Figure 1: As known in the arts, a color projection will typically include some means to separately modulate red, green, and blue (RGB) light. There must be some means

LAW OFFICES OF
MACPHERSON, KWOK CHEN
& REID LLP

2102 MICHELSON DRIVE
SUITE 210
IRVINE, CA 92612
(949) 752-7040
FAX (949) 752-7040

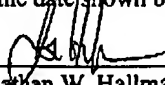
such as dichroic mirrors or color wheels then to separate these colors from a white light source. The modulated RGB light beams must then be recombined to form the image, necessitating cumbersome and awkward realignment optics. Applicant has invented a color projection system that eliminates the need for such cumbersome realignment optics. For example, as seen in Figure 1, a diffraction grating (element 155) diffracts light from source 180 into a diffracted beam 150. Depending upon the angle of the diffraction grating with respect to incident beam 145, the diffracted beam will be predominately red, or green, or blue. Thus, LC microdisplay panel 110 will sequentially modulate the RGB light without the need for realignment optics.

As shown in Figures 2a and 2b, a diffraction grating may be used in either a transmissive or reflective mode. Figure 4 shows a transmissive diffraction grating embodiment whereas Figure 1 shows a reflective diffraction grating embodiment. In that regard, note that claim 1 is absolutely generic to either embodiment: the claimed diffraction grating is not limited to be configured in a transmissive mode nor is it limited to be configured in a reflective mode.

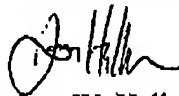
As seen in Figure 7, the diffraction grating may be replaced by a prism 705. Just as with the diffraction grating, a prism may be used in either a reflective or transmissive mode. In that regard, claim 9 is absolutely generic: the claimed prism is not limited to be configured in a reflective mode nor is it limited to be configured in a transmissive mode. Having shown that there are two distinct embodiments (those having diffraction gratings and those having prisms) Applicant proposes classifying the claims as follows: Species 1 would be claims 1 – 8 and 17 – 19, which are directed to diffraction grating embodiments. Species 2 would be claims 9 – 16 and 20 – 21, which are directed to prism embodiments. Applicant elects to pursue species 1.

LAW OFFICES OF
MACPHERSON, KWOK CHEN
& KIM LLP
1402 MICHELSON DRIVE
SUITE 210
IRVINE, CA 92612
(949) 752-7040
FAX (949) 752-1049

Applicant traverses any remaining restriction.

Certification of Facsimile Transmission
I hereby certify that this paper is being facsimile
transmitted to the U.S. Patent and Trademark Office
on the date shown below.

Jonathan W. Hallman
September 24, 2004
Date of Signature

Respectfully submitted,


Jonathan W. Hallman
Attorney for Applicants
Reg. No. 42,622

LAW OFFICES OF
MACPHERSON, KWOK CREW
& REID LLP

2403 MICHELSON DRIVE
SUITE 110
IRVINE, CA 92612
(949) 752-7040
FAX (949) 752-7049